



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10007

H. Miller

2. File Duane Marine

(W)

*Rcd
4/16/80
1300
(110)*

APR 10 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marvin J. Brauth, Esq.
Wilentz, Goldman & Spitzer
900 Route 9
Woodbridge, New Jersey 07095

Re: Duane Marine Corporation;
Violation of 40 C.F.R. Part 112
Docket No. OH-II-79-66

Dear Mr. Brauth:

This letter documents the observations of Mr. Michael Polito of EPA's Emergency Response Branch made during his visit to your client's facility on 26 Washington Street, March 28, 1980. This visit was planned pursuant to my request that Mr. Polito work directly with your client and his professional engineer in bringing the facility in compliance with the Spill Prevention Control and Countermeasure (SPCC) Program. Upon arriving at the facility Mr. Polito reported to the main office where Mr. Potestivo received him and accompanied him during his inspection. Mr. Lecarreaux was present during the latter part of the visit.

The following were Mr. Polito's observations of current conditions at Duane Marine:

1) The general housekeeping has deteriorated since his last visit, but no substantial drippings of oil were observed.

2) Four trailers which Mr. Polito was advised contained oil-bearing solvents were stored northeast of the diked tank area, along the shoreline of the Arthur Kill. No secondary containment was provided, nor was this storage in tank trailers identified in the SPCC Plan.

RECEIVED

APR 15 1980

E. J. [unclear] response
and Inspection Branch
Edison, N. J.

335001



3) Three underground gasoline tanks of 2,000 gallon capacity were newly identified by Mr. Potestivo. These tanks were never identified in the SPCC Plan.

4) The barrel storage area still did not have adequate secondary storage. A new temporary sand dike was partially completed. The dike appeared to be constructed of sand covered with plastic in some areas, a sandbag in another area, and mounded dirt in a third area. However, in all areas to the north, no secondary containment was provided.

5) The loading/unloading area addressed in Part II, Alternate A of the Plan did not have the entire curb provided for in the Plan.

6) Approximately 4000 drums were stored on the property. No inventory could be supplied for the material in each drum.

During Mr. Polito's visit Mr. Lecarreux made copies of Mr. Polito's May 22, 1979 memos to Fred Rubel and to Richard Tisch of EPA. Mr. Lecarreux advised that he had not seen written copies of the memos before. During discussion your client recalled that Mr. Polito was to have proposed an earlier meeting with him and his professional engineer, as indicated not only in Mr. Polito's May 22 memo to Mr. Rubel, but also in his memo to Mr. Tisch. It must be noted, however, that Mr. Polito's verbal comments made during his May 11, 1979 meeting with your client were not acted upon, particularly with regard to uncontrolled facility drainage which could result in contaminated rainfall from overflowing barrels, plant drippings, etc. Mr. Lecarreux advised that he would not take action on any verbal comments. Accordingly please be advised that the following must be addressed in the Plan:

1. Please refer to Mr. Polito's May 22¹⁹⁷⁹ letter to R. Tisch in your client's possession. Paragraphs 1-6 must be addressed in the SPCC Plan.
2. The new trailer storage must be addressed in the SPCC Plan with adequate implementation. This is a new point of non-conformance with 40 C.F.R. Part 112.
3. The underground gasoline storage identified during Mr. Polito's March 28, 1980 visit is another new point of non-conformance with the SPCC regulations. This also must be described, and expeditious implementation performed.

4. Records are still not being kept. Even though Mr. Lecarreux claimed that his records had been seized by the N.J. Crime Commission Task Force, daily operating records since that seizure should have been available. They were not. Within 10 days please provide me with a copy of the State's records receipt.

→ Please correct the items identified by submitting a copy of an amended SPCC Plan in duplicate to me and Mr. Polito by May 1, 1980.

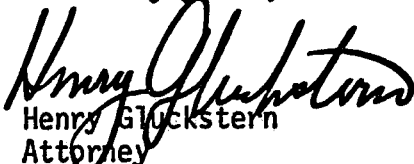
I am enclosing a copy of 40 C.F.R. Part 112 as Mr. Lecarreux requested and a copy of Mr. Polito's handwritten field notes, which Mr. Potestivo requested during his visit. I urge your client to retain a professional engineer who has experience with the SPCC Program to prepare your plan, as his efforts have fallen far short of EPA's requirements.

If Mr. Polito can be of some help advising your client of the requirements of the SPCC regulations, please do not hesitate to contact him. Please recognize, however, that EPA can not write Duane Marine's SPCC Plan.

The willingness your client evidenced to comply with EPA's regulations during Mr. Polito's inspection visit indicates to me that he would be interested in attempting a settlement of the Notice of Violation issued against Duane Marine. I would appreciate it if you would contact me to confirm that my perception is correct. We can then discuss the two main elements of such an agreement - implementation date for full compliance with the SPCC Plan requirements and amount of mitigated civil penalty. I suggest that your client consider an implementation date between June 1 and July 1, 1980. My engineering staff has advised me that if the engineering work required to put the Plan into conformance with 40 C.F.R. §112.7 is performed during the month of April, 1980, completion of implementation of the Plan is possible between June 1 and July 1, 1980.

However, you should be aware that if your client does not agree to promptly prepare and implement a proper SPCC Plan, it will be necessary to proceed to a hearing on this matter immediately. If that is the position taken by your client, please contact me with several alternate dates on which you and your client will be available to appear in New York for a hearing.

Sincerely yours,


Henry Gluckstern
Attorney
Enforcement Division